

Executive Order 2005- 30

Ensuring Compliance With Federal Immigration Laws By State Employers and Contractors

WHEREAS, for the first time in Arizona's history, federal documentation confirms that more immigrants are entering the state illegally than legally; and

WHEREAS, although most illegal immigrants enter the state for peaceful purposes, seeking jobs and a better way of life, illegal immigration comes with many negative consequences to Arizona's citizens as well as the illegal entrants themselves, including deaths in our desert, criminal activity associated with illegal human trafficking, unexpected financial burdens on emergency health services, and trespasses to real and personal property in our border counties; and

WHEREAS, the unlawful employment of undocumented immigrants is a significant cause of illegal immigration; and

WHEREAS, the State of Arizona is committed to deterring unlawful employment practices; and

WHEREAS, the federal government, operating through Congress and the Department of Homeland Security, is exclusively empowered to pass United States immigration laws and has had primary responsibility for enforcing them; and

WHEREAS, Arizona has cooperated with the federal government to assist in that enforcement to the extent allowed by law, including declaring a state of emergency in Arizona's borderland counties, assigning Department of Public Safety personnel to combat crimes associated with illegal immigration, and forging cooperative working arrangements with the Immigration and Customs Enforcement division of the Department of Homeland Security; and

WHEREAS, the Immigration & Nationality Act provides a comprehensive scheme for employers to easily verify the immigration status of all job applicants without engaging in unlawful discrimination; and

WHEREAS, those provisions have been ignored by federal enforcement agencies over the last several years to the detriment of the businesses and citizens of Arizona;

NOW THEREFORE I, Janet Napolitano, Governor of the State of Arizona, by virtue of the powers conferred upon me by the Constitution and laws of the State, hereby order as follows:

1. All State agencies shall review and, if necessary, revise their own hiring practices to ensure compliance with all State and federal laws applicable to immigration, including, but not limited to, the Arizona Department of Administration General Accounting Office Technical Bulletin 05-14, issued

October 20, 2005 (or such subsequent policy publications that may supersede this technical bulletin).

2. All State agencies shall endeavor to ensure compliance by state contractors with federal law and regulations related to the immigration status of their employees. In particular, state agencies shall insist in all applicable state contracts that: 1) each state contractor warrant that it is in compliance with all federal immigration laws and regulations; 2) all subcontractors to the contractor execute similar warranties; 3) the breach of any such warranty shall be deemed a material breach of the applicable contract, subject to monetary penalties or other penalties up to and including termination of the contract; and 4) the state agency shall retain the legal right to inspect the papers of any employee who works on the contract to ensure that the employer is in compliance with its warranties.
3. Each state agency that enters into a state contract shall establish procedures to conduct random checks of the employment records of state contractors to ensure that their contractors are in compliance with their warranties.
4. Notwithstanding paragraph two (2) above, no state agency shall deem a contractor in material breach of its contract if the contractor can establish that it has followed the employment verification provisions of the Federal Immigration & Nationality Act as set forth in Sections 274A and 274B of that Act, including implementing regulations and agreements between the Department of Homeland Security and the Social Security Administration's Verification Service.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.


GOVERNOR

DONE at the Capitol in Phoenix on this 20th day of October in the Year Two Thousand and Five and of the Independence of the United States of America the Two Hundred and Thirtieth.

ATTEST:


SECRETARY OF STATE

